



**Hundredth Legislature - First Session - 2007
Committee Statement
LB 583**

Hearing Date: February 22, 2007
Committee On: Natural Resources

Introducer(s): (Preister)
Title: Adopt the Electronic Recycling System Act

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - Advanced to General File with Amendments
 - X Indefinitely Postponed
-

Vote Results:

8	Yes	Senators Carlson, Christensen, Dubas, Fischer, Hudkins, Kopplin, Louden, Wallman
0	No	None
0	Present, not voting	None
0	Absent	None

Proponents:

Senator Don Preister
Jim Otto
Ken Winston
Steve Andrews
Carrie Hakenkamp
Jeremy McNeal
Gary Lund
Gary Krumland

Representing:

Introducer
Nebraska Retail Federation
Nebraska Chapter, Sierra Club
Nebraska State Recycling Association
WasteCap Nebraska, Inc.
CP Recovery
City of Norfolk
League of Nebraska Municipalities

Opponents:

Thor Schrock

Representing:

Schrock Innovations, Inc.

Neutral:

Mike Linder
Bill Gidley

Representing:

Department of Environmental Quality
Department of Environmental Quality

Summary of purpose and/or changes:

LB 583 does the following:

Section 1 Creates the Electronics Recycling Act.

Section 2 States the purpose of the Act as establishing a comprehensive electronics recycling system.

Section 3 Definitions:

- (1) Cathode ray tube – vacuum tube or picture tube used to convert an electronic signal to a visual image.
- (2) Computer – electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions. It does not include an automated typewriter or typesetter, a portable handheld calculator, a portable digital assistant, or other similar device.
- (3) Consumer – an individual who purchases a covered electronic device at retail for use by household members.
- (4) Covered electronic device – a personal desktop computer, a computer monitor, a portable computer, a cathode-ray-tube based television, or a non-cathode-ray-tube based television sold to consumers for use by household members. (There is a list of exceptions.)
- (5) Covered electronics recycler – an electronics recycler that is approved by the department for compensation.
- (6) Department – Department of Environmental Quality.
- (7) Manufacturer – any person who manufactures covered electronic devices, supplies them to any person whether a wholesaler or retailer, and benefits from the sale.
- (8) Manufacturer’s brand – manufacturer’s name, brand name, or brand label and all names, brand names, or brand labels that have been acquired by the manufacturer.
- (9) Monitor – separate video display component of a computer.
- (10) Obligation – quantity of covered electronic devices, by weight, identified for an individual manufacturer.
- (11) Person – an individual, a trust firm, a joint stock company, a business concern, a corporation, a governmental agency, a partnership, a limited liability company or an association.
- (12) Portable computer – a computer and video display greater than four inches that can be carried as one unit by an individual.
- (13) Purchase – taking of title in exchange for consideration.
- (14) Recycling – any process that returns covered electronic devices to uses in the form of raw materials or products.
- (15) Registrant – a manufacturer of covered electronic devices that is in full compliance with the act.
- (16) Retail sale – sale of a product through sales outlets, the Internet, mail order, or other means, whether or not the seller has a physical presence in this state.
- (17) Retailer – person who owns or operates a business that sells new covered electronic devices in this state to a consumer.
- (18) Sell or sale – any transfer of title for consideration excluding leases.

- (19) State recycling rate – the ratio of the weight of total overall covered electronic devices collected for recycling or reuse to the weight of total overall sales of covered electronic devices during the previous calendar year.
- (20) Television – a stand-alone display system containing a cathode ray tube intended to receive video programming via broadcast, having a viewable area greater than four inches.
- (21) Video display – output surface having a viewable area greater than four inches.

- Section 4
- (1) Requires the manufacturer by October 1, 2007 to report to the department the total weight of covered electronic devices sold in this state the previous calendar year.
 - (2) Requires the manufacturer by January 31, 2008, and every year thereafter to register with the department and pay a registration fee. The fee is based on the quantity of devices sold the previous year, and shall be either \$1,000 or \$5,000.
 - (3) Requires an annual report, beginning on January 31, 2009, to the department which will indicate the total weight of covered electronic devices sold in this state or may request the department to calculate the total weight by using prorated national sales data based on state population.

- Section 5
- (1) Requires each manufacturer to pay an annual fee, beginning in 2009, based on sales in the state. The fee is calculated by multiplying the state recycling rate by the weight in pounds of sales during the previous calendar year and then multiplying such product by not more than 50 cents per pound.
 - (2) Allows a credit for devices that were collected, refurbished, and donated for reuse.
 - (3) In lieu of the fee, a manufacturer or group of manufacturers may submit a plan to collect, transport and recycle covered electronic devices. The plan must show:
 - (a) Methods that will be used to collect, including sites for collection;
 - (b) Estimate of the number of pounds to be collected annually;
 - (c) Processes and methods used to recycle;
 - (d) Documentation of audits of each processor;
 - (e) Accounting and reporting systems used;
 - (f) Means that will be used to publicize the collection opportunities;
 - (g) Intention of registrant to fulfill its obligations; and
 - (h) Total weight of covered electronic devices collected, transported and recycled for the previous year.
 - (4) Upon the department's approval of the plan, the fee shall be waived. The department has the authority to reject the plan in whole or in part.
 - (5) If the manufacturer fails to comply with the plan, it is required to submit:

- (a) A payment to cover the cost of collecting, transporting and recycling the unmet portion which shall be equal to the quantity in pounds multiplied by not more than fifty cents; and
 - (b) A fee equal to the cost of collecting, transporting, and recycling ten percent of the manufacturer's total obligation.

- Section 6
 - (1) Prohibits a manufacturer who is not in compliance from selling the devices in this state.
 - (2) Prohibits any person from offering such a device for sale in this state if the manufacturer is not in compliance as of March 1, 2009.
 - (3) Requires the department to maintain a list of all registrants and post the list on its website.

- Section 7 Prohibits a manufacturer or retailer from selling a device that is not labeled with the manufacturer's brand as of January 1, 2009.

- Section 8 Requires a retailer to post and provide information that describes where and how to recycle the devices, and opportunities and locations for the collection or return of the devices, through the use of a toll free telephone number and website. It also requires that the language be in English and any other languages deemed to be primary language by the State Department of Education.

- Section 9 Requires the department to:
 - (1) Establish a state recycling rate by March 1 of each year.
 - (2) Provide each registrant with the amount of its obligation by April 1 of each year.
 - (3) Receive the fees.
 - (4) Ensure collection sites do not place limits on the number of such devices permitted for drop-off by consumers.
 - (5) Encourage the use of existing collection and consolidation infrastructure for the handling of such devices.
 - (6) Encourage the use of existing recyclers.
 - (7) Encourage the refurbishment and reuse of the devices and work with for-profit and nonprofit organizations to achieve these goals.
 - (8) Organize and coordinate public education and outreach.
 - (9) Maintain a website and toll free number for such purposes.
 - (10) Use the revenue from this act for the sole purpose of carrying out the purposes of the Act.

- Section 10
 - (1) Requires the department to prepare an annual report to the Legislature by December 1, 2008 and each year thereafter. The report must contain the following:
 - (a) A list of all persons the department has designated to receive payments under the act, the amount of the payments, and the purpose of the payments;
 - (b) The total weight of all covered devices under the act collected for recycling;

- (c) The total weight of all covered devices sold in the state;
 - (d) The progress made during the previous calendar year toward achieving the overall annual total recovery and recycling goals;
 - (e) A listing of all collection sites, the persons who operated them, and the amount of material, in pounds, collected;
 - (f) An evaluation of the education and outreach programs; and
 - (g) An evaluation of the existing collection and processing infrastructure.
- (2) Grants the department immunity for payments made to any person who may be in violation of federal, state or local law.
- Section 11 Prohibits fees or costs to be charged to the consumers for collection, transportation or recycling of the devices covered under the act.
- Section 12
- (1) Requires the department to engage in competitive bidding for the collection, transportation and recycling of covered electronic devices.
 - (2) Requires the department to pay the successful bidder from its invoice that must show proof that:
 - (a) The device was collected from a Nebraska resident or proof that it was purchased in this state;
 - (b) The collection, transportation and recycling was conducted in accordance with this act; and
 - (c) No fees were charged to the consumer.
- Section 13
- (1) Requires the devices to be recycled in a manner that complies with all federal, state and local laws, and prohibits exporting for disposal in a manner that poses a significant risk to the public health or the environment.
 - (2) Requires the department to develop rules and regulations for collectors, transporters, and recyclers in order to receive payments under the Act.
- Section 14 Prohibits:
- (1) The sale of new devices if the person is not in compliance with the Act.
 - (2) Application for compensation for collection, transportation or recycling of a device not collected within this state.
 - (3) Using a qualified collection program to recycle devices not discarded within this state.
 - (4) Knowingly filing inaccurate reports.
 - (5) Failing to remit fees under the Act.
- Section 15 Allows the Attorney General or the department to initiate an action to enforce the provisions of the Act.
- Section 16 Allows the department to contract with a third party to carry out its duties under the Act. Allows the department to participate in the establishment and implementation of a regional multistate organization to assist in carrying out the

provisions of the Act.

Section 17 If the federal government creates a federal program that is at least as stringent as the state's Act, the state's Act shall terminate.

Section 18 Requires the department to develop rules and regulations to carry out the provisions of the Act.

Section 19 Establishes the operative date of September 1, 2007.

Section 20 Severability clause.

Explanation of amendments, if any:

None

Senator LeRoy Loudon, Chairperson